IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 23124 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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VERAVAL PATAN JT. MUNICIPALITYTHRO.CHIEF OFFICER - Petitioner(s)

Versus

STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :

MR HARIN P RAVAL WITH MR ASHISH H SHAH for Petitioner(s) : 1,
GOVERNMENT PLEADER for Respondent(s) : 1,
NOTICE SERVED BY DS for Respondent(s) : 1 - 4.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 26/04/2006

ORAL JUDGMENT

1. By way of this petition under Article 226 of the Constitution of India, the Veraval Patan Joint Municipality, one of the local authority constituted under the provisions of the Gujarat Municipalities Act, has challenged the legality and validity of the

order passed by the Collector, Junagadh, dated 28th October, 2005 by which the Collector, Junagadh, has held that the property in question is of the ownership of the Government and the Chief Officer of the Municipality was directed to hand over the possession to the Mamlatdar, Veraval. Thus, it appears that so far as the present Special Civil Application is concerned, there is a dispute between the two government authorities with regard to the ownership of the property in question and considering the judgment of the Hon'ble Supreme Court in case of ***Oil & Natural Gas Commission V/s. Collector of Central Excise*** reported in **1991 (4) JT 858 : 1995 Supp (4) SCC 541** and the other recent decision in case of ***Mahanagar Telephone Nigam Ltd., V/s. Chairman, Central Board, Direct Taxes & Another*** reported in **AIR 2004 SC 2434 : (2004) 6 SCC 431**, the dispute must be resolved by the High Power Committee and the present proceedings at the instance of the local authority challenging the order of another government authority is not required to be entertained without the dispute being considered by

the High Power Committee. Considering the above, the present Special Civil Application is disposed of in terms that the State of Gujarat through its Chief Secretary to constitute the High Power Committee under the chairmanship of Chief Secretary and other members namely Secretary, Panchayat, Rural Housing and Rural Development, Secretary, Revenue Department and Secretary, Urban Development. It is open to the petitioner to file their detail representation in respect of the grievance made by them in the present Special Civil Application to the Committee within a period of 2 weeks from today and along with the representation, a copy of this judgment may also be sent. On receipt of the representation, the Committee shall decide the same within a period of 2 months thereafter and try to resolve the dispute and decide whether the petitioner should be permitted to proceed further with the litigation, if the dispute is not resolved and until then, without prejudice to the rights and contentions of both the parties, the parties are directed to maintain status-quo as on today subject to the decision that may be taken by

the Committee.

2. With these observations and direction, the present Special Civil Application is disposed of. Notice is discharged. However, there will be no order as to costs.

(M.R.SHAH, J.)

kdc.